

UNITED STATES OF AMERICA
 NATIONAL TRANSPORTATION SAFETY BOARD
 OFFICE OF ADMINISTRATIVE LAW JUDGES

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Investigation of:

M/V COSCO BUSAN/BRIDGE ALLISION
 SAN FRANCISCO, CALIFORNIA

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 * Docket No.: DCA-08-MM-004
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Interview of: GEORGE BUFFLEBEN

Thursday,
 January 31, 2008

The above-captioned matter convened, pursuant to
 notice, at 3:20 p.m.

BEFORE: BARRY STRAUCH
 National Transportation Safety Board

APPEARANCES:

BARRY STRAUCH
National Transportation Safety Board
Office of Marine Safety
490 L'Enfant Plaza East
Washington, DC 20594
(202) 314-6491

CAPT. RICHARD A. HURT
San Francisco Bar Pilots Association
Pier 9, East End
San Francisco, CA 94111
(415) 362-5436

STEVE BROWN
American Pilots Association

CAPT. GARY TOLEDO
California Department of Fish and Game
Office of Spill Prevention and Response
1700 K Street
Suite 250
Sacramento, CA 95841
(916) 324-6450

CAPT. RICHARD W. HOLLY
California Department of Fish and Game
Office of Spill Prevention and Response
Spill Prevention and Response Unit
425G Executive Court North
Fairfield, CA 94585

G. ROSS WHEATLEY
U.S. Coast Guard
Commanding Officer (SIO)
Sector San Francisco
Coast Guard Island, Bldg 14
Alameda, CA 94501-5100
(510) 437-3146

NAGARAJAN (AGA) M.S.
General Manager
Fleet Management Limited
Unit 1603 16th Floor Mass Mutual Tower
38 Gloucester Road
Hong Kong
(852) 2861-3511

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I N T E R V I E W

(3:20 p.m.)

MR. STRAUCH: Okay, we're -- it's approximately 1520 on January 31st. We're interviewing George Buffleben of the Coast Guard.

EXAMINATION OF GEORGE BUFFLEBEN

BY MR. STRAUCH:

Q. And, George, we have your permission to record this interview?

A. Yes.

Q. Okay. And now the statement you, you handed out in response to your request for -- was that, as that made specifically for us, for the Safety Board?

A. No, no. It's something I was given yesterday at the National Maritime Center. It's kind of the clarification of the status of the latest NAVIC.

Q. Okay.

A. And where we can find drafts of the old NAVIC and, and I think it's probably the draft of the current NAVIC, although I'm not, not sure whether it was the draft NAVIC that was published in the *Federal Register* or whether it's the current revision of the NAVIC. I haven't had a chance to look yet.

Q. Okay. The work that was done on Captain Cota's medical evaluation, was that done under the existing NAVIC or

1 the future NAVIC?

2 A. No, I -- what happened is when they published the
3 draft NAVIC, one of the SIPs -- there are 17 RECs. One of the
4 SIPs had sent an e-mail to the Program Manager's Office, which
5 is what we usually do for guidance, and asked whether we should
6 be using the new NAVIC or the old NAVIC for, for guidance, and
7 the answer that came back was that we should continue to use
8 the old NAVIC. The new NAVIC was just a draft and was subject
9 to change. So in my office, my guidance to my evaluators was
10 to use the old NAVIC.

11 Q. Okay, all right, so before we start asking about
12 that, can you just tell us about your past, your education,
13 experience and so on just briefly up to the present?

14 A. Very briefly, I'm a displaced engineer. I went to
15 the Coast Guard Academy. I went to sea. I've had six years
16 sea duty. My first year was, I was a deck officer. After
17 that, I went into a student engineering program. I went into
18 naval engineering. Went to MIT. I have two graduate degrees
19 in engineering, a Master's in -- engineer, and the other degree
20 is actually a little bit higher. It's a professional
21 engineer's degree as a naval engineer. I worked in the Coast
22 Guard -- technical program, which in the old days the Coast
23 Guard used to do plan review and commercial ship designs. For
24 a while I was head of the San Francisco Field Office as
25 basically the chief engineer, approving drawings for new

1 construction, conversion, any project where the OC might have
2 needed help. Basically consulted for all the West Coast and
3 everything in this hemisphere for, for ship construction
4 projects. There's a lot of overseas construction when I was
5 there because there was a lot of building of mobile off-shore
6 drilling units in foreign ports, so. After I retired on 20
7 years service, for about three years I think I worked for a
8 small naval engineering firm in San Francisco. Eventually the
9 work here started to dry up, and eventually I did a lot of work
10 as -- for a small consulting firm, APL. They're new
11 construction, container ships and in Germany, also for Manson.
12 I did a lot of re-flagging work, re-flagging projects, bringing
13 foreign flag vessels under U.S. flag. Once again that work
14 started to dry up, and I eventually because I wanted to stay in
15 the area chose to apply for Coast Guard jobs to finish out my
16 career. And originally took a job in naval engineering, and
17 when this billet was converted from a military billet to a
18 civilian billet, I applied for this job and took it.

19 Q. And -- this job?

20 A. Yeah, that, that happened, I, I came aboard for the
21 Coast Guard in the year 2000, and I'll have been in this job in
22 April for six years.

23 Q. And by this job is Chief of the Regional Exam Center?

24 A. Yes.

25 Q. How large -- what's the area that -- the jurisdiction

1 of the REC?

2 A. Basically we get mariners from all over. We've been
3 part of originally MSO, Marine Safety Office, San Francisco
4 Bay, and then, and actually kind of when I was active duty, I
5 actually retired out of the Marine Safety Office as the
6 executive officer. But we, we cover northern California, parts
7 of Nevada. We do -- Utah. So it covers a very large area.

8 Q. Now you, you said that Mr. Cota's evaluations fell
9 under the old NAVIC?

10 A. Yes.

11 Q. His most recent evaluation that we have is dated
12 January of '07 -- January, January 19th, '07.

13 A. That, that sounds correct.

14 Q. Okay.

15 A. I actually haven't seen his file. I was out of town
16 when the accident occurred. I was in West Virginia for a -- or
17 SIP conference, so that -- and when I, I came back probably
18 that Friday, and Monday was a holiday and the IO Shop requested
19 the file on Monday, so I had an employee bring the file over
20 here. I actually had not examined those physicals but I'm, I'm
21 generally familiar with -- I believe I'm familiar with the --

22 Q. Okay, well here's, here's copies --

23 A. Okay.

24 Q. -- the one for January of '07. You see a lot of
25 these?

1 A. No, I, I personally don't, but basically kind of what
2 happened when I came on scene, they were centralizing the
3 process. I've always had -- for us just so you kind of know at
4 least some of the history, medical waivers have, have always
5 been a problem because we basically -- come in, we start doing
6 the evaluation. When we look at the physical, we see that it
7 goes beyond what we would grant as a waiver. So then we, we
8 need to pack up a package, send it to Washington for review.
9 That process has always been a torturous process. And we had
10 a -- you know problems with the coordinator keeping track of
11 the files, knowing the status of the file. They always used a
12 public health doctor as a reviewer, but, you know, it wasn't
13 their primary duty so we never knew how long a file would,
14 would sit there. We had periods where, you know, the delays
15 were easily six weeks, and we would always have trouble trying
16 to follow up on the, the status to find out what the status of
17 a review was. So that for us it had -- it's always been, you
18 know, we, we're very proud. We like to feel our office grants
19 customer service, and, and this has always been a thorn in our
20 side. So I've only had my most senior people doing the medical
21 waivers, and basically in this case it was a pilot. I --
22 throughout almost the entire time I've had one person managing
23 our pilot program. I originally started out with two chiefs
24 that were here when I arrived here. So I had Chief, Chief
25 Breedon (ph.), he's my assistant, he was -- has since left the

1 Coast Guard, and I converted his position to a civilian. So
2 he's still my current assistant. He submits all the medical
3 waivers. I also have Chief Hogge. Again, she was here even
4 longer than Chief Breeden. Her background was as a chief
5 quartermaster. So she, she's always managed our pilotage
6 program, and as a result all the pilots' physicals go to her
7 for review.

8 Q. Okay. Captain Cota's physical go to her for review?

9 A. Yes.

10 Q. Okay. And when she reviewed it, what happened then?

11 A. At this point, I have to say it's very vague that
12 there's a -- when these regulations came out, what happened
13 again an SIP e-mailed the, the National Maritime Center and
14 requested can we send all these physicals -- this new -- can we
15 send all these physicals to the National Maritime Center --
16 again, at that point, I'm not sure that Dr. French was the
17 program manager, but he was definitely there in Headquarters,
18 and they had some staff that they were starting to develop the
19 program. The answer came back to us, no, that we want to
20 continue with the current procedures, and that we would only
21 submit physicals that -- under the current guidelines.

22 Q. Okay. When you say regulations came out, which
23 regulations are you referring to?

24 A. The requirement that annual physical be submitted to
25 the Coast Guard.

1 Q. Okay.

2 A. You know that was a new regulation. I think I have a
3 copy, but --

4 Q. Okay.

5 A. -- I forget exactly when that happened.

6 Q. Okay. Now when was this e-mail sent out, the one
7 from the SIP?

8 A. At the time those regulations were published.

9 Q. Okay, and when was that?

10 A. I'd have to look at the --

11 Q. Approximately.

12 A. Yeah, I -- time-wise, we've had so many changes, I
13 have a hard time nailing down times.

14 Q. Okay.

15 A. He submitted two annual physicals, and the physical
16 before that was for renewal of his license. So he has
17 definitely submitted a physical in 2006 under the new
18 regulations and also a physical under 2007.

19 Q. Right. Okay. Physical in 2007, and I'm quoting now
20 from the remarks, prior history of alcohol abuse, depression,
21 none for eight years. He attends AA meetings two times a
22 month. Okay. What did the REC do to follow-up on this item
23 right here?

24 A. At this point, I can't say that what we did.
25 Basically the physical comes in. We screen the physical. If

1 we believe the physical needs to go for medical review, we send
2 it to Washington.

3 Q. Okay.

4 A. If, if we believe that it meets the current
5 guidelines, that either there's no change in physical or that
6 it doesn't require screening, the physical would be filed in
7 the mariner's folder. What we try and have our staff do is we
8 have a program database. It's called MMLD, Merchant Mariner
9 Licensing and Documentation Database. You know, it's a
10 complicated database with an interface, but there's, there's
11 room for medical notes. Ideally the evaluator would go in and
12 put in comments that they received the, the physical, and that
13 they, you know, filed it. In this case, there's an entry in
14 December, but it, it's so vague that I can't tell exactly what
15 happened with this physical.

16 Q. Okay. Did this, did this physical, I'm referring to
17 719K, dated January 19th, '07, was it filed in MMLD or was it
18 sent to Washington for further medical review?

19 A. It wasn't sent to Washington.

20 Q. Okay. So was there --

21 A. We found it in the mariner's file.

22 Q. So there was no additional medical review of his, of
23 this --

24 A. Right. It was not submitted to our medical staff.

25 Q. Okay. Who makes that decision whether it gets sent

1 for additional medical evaluation or not?

2 A. Typically the evaluator would do that using effective
3 NAVIC.

4 Q. And the -- do you know who the evaluator was on
5 this?

6 A. In this case the evaluator, you know, I can't even
7 say for sure that she saw it, but assuming that she did see it,
8 she should have seen it, that would have been Chief Hogge.

9 Q. How do you spell that, H --

10 A. H-o-g-g-e.

11 Q. Okay. So the item about prior history or alcohol
12 abuse have --

13 A. Yeah -- I mean to me it makes more sense to go back
14 to the last physical when we issued his -- renewed his license,
15 and that was roughly 2005. That physical looked exactly the
16 same as the physical he did in roughly 2000 where he did
17 receive a medical waiver.

18 Q. Okay.

19 A. So everything that was on that 2000 physical and 2005
20 physical, you know, technically had been reviewed by a doctor,
21 and he was deemed to have met, you know, the performance
22 standards to perform his duties.

23 Q. So the physical that was sent for additional
24 medical -- that was in 2005?

25 A. It was, it was actually the physical in 2000. He

1 came in and renewed his license in 2000, and that physical and
2 whatever other medical evidence is there was submitted to
3 Washington, was reviewed by a public health doctor, and we
4 had -- I believe it was an e-mail back from the coordinator
5 that the waiver was granted.

6 Q. So that was the last time?

7 A. That was the last time he had a physical that
8 received medical review. But we also our evaluator did review
9 his application for license renewal in 2005. A physical that
10 was submitted with the 2005 application for renewal was
11 virtually identical to the previous physical. So that we
12 didn't, you know, we basically took the waiver and continued
13 the waiver.

14 Q. I don't have a physical for '05. I have one for '04.

15 A. Yeah, I, I believe -- I think it's maybe late in '04.
16 I think that's the physical that was submitted with his
17 application.

18 Q. I have one dated January 30th, '04. The one I have
19 before that is July 26th of '99. The one before that is, is
20 '94. Do I have, do I have the accurate physicals or is
21 there -- are there --

22 A. I don't -- like I say, without either checking our
23 database -- we gave the entire file to the investigators.

24 Q. Okay.

25 A. So presumably you have everything that was there. I,

1 I have not seen the file.

2 Q. Okay. Did --

3 A. But it, I mean in general it sounds like you have --

4 Q. Okay. Did Mr. Wheatley convey to you my request that
5 you read the file?

6 A. I don't believe so. I, I haven't had the file.

7 Q. Okay. Okay, well it was one in '04 that was also
8 prior history of alcohol abuse and depression, on Wellbutrin,
9 which is a medication. He attends AA meetings three times a
10 week. This, this was the one that was reviewed by a, by a
11 evaluator, a medical evaluator.

12 A. What I, what I'm saying is that's the same basic
13 physical as the one that was done in 2000.

14 Q. Okay.

15 A. And, and that one was reviewed by a doctor.

16 Q. Okay. Do you know the name of the doctor who
17 reviewed it?

18 A. No, I don't.

19 Q. Okay. Was it Dr. Johns?

20 A. I don't know who reviewed it.

21 Q. Now I did not see any, any written evaluation by a
22 Washington-based physician.

23 A. We didn't -- all we get back is a short e-mail saying
24 that the, the waiver was granted.

25 Q. Okay. And there's no indication as to what follow-up

1 was done or, or --

2 A. I suspect -- he was deemed medically fit to do his
3 duties, and I don't believe there was any follow-up.

4 Q. Okay, all right. So the medications that are listed
5 here was there -- did the evaluator in your office compare the
6 medications listed here with the medications that were used
7 in -- listed in July of '99 to see if there are any changes in
8 the medications that were used?

9 A. I believe so. My impression of the physical --
10 basically I don't --

11 Q. Okay, okay. Well since then, since the one in '99,
12 Captain Cota listed sleep apnea.

13 A. I believe that was on his most recent physical.

14 Q. Right, right. So --

15 A. Yeah, that's a new, new condition.

16 Q. Okay. So would the fact that sleep apnea is listed
17 as a new condition in the '07, is--

18 A. No. Again my office was using the old NAVIC. I
19 forget the number. Is it --

20 UNIDENTIFIED SPEAKER: 298.

21 MR. BUFFLEBEN: 298.

22 BY MR. STRAUCH:

23 Q. Well, I guess what I don't understand is, is I can
24 understand as you said that the form is basically identical to
25 the one that was -- the information on the form is basically

1 identical to the one subject to an -- to the full evaluation by
2 a physician in Washington.

3 A. Yes.

4 Q. But apparently it was new information that was not on
5 the one in '99. So under what you said that, that because
6 there was a change in it, the change being the addition of
7 sleep apnea, would this change have warranted an additional
8 medical evaluation because there was a change in his medical
9 condition?

10 A. You're talking about his most recent physical?

11 Q. Yes.

12 A. Now knowing what I know now, obviously I would have
13 my staff submit it to Washington. At the time the guidance to
14 my staff was to use the old NAVIC as, as guidance to making
15 those decisions.

16 Q. Okay. Okay, are there any, are there any medications
17 that, that the -- is listed in the -- on the 719K that would
18 automatically warrant additional, additional follow-up medical
19 evaluation?

20 A. Again, we use the NAVIC as guidance.

21 Q. Okay.

22 A. And, you know, unfortunately they're not crystal
23 clear. So different people could look at the NAVIC and, and
24 decide one way or the other way based on a given medication.
25 I, I've heard of the drug Wellbutrin before because my

1 girlfriend's son had used it to try and, you know, relieve some
2 anxiety and reduce his smoking addiction. I, you know, I'm
3 familiar with some drugs. My wife has passed away from breast
4 cancer. So there's -- I'm used to dealing with drugs like
5 morphine for pain and so forth. My assistant, John Breeden,
6 has a 55 percent disability from the VA for sleep apnea. So
7 some of these conditions I have some knowledge of, but, you
8 know, our standard for trying to make a decision on whether or
9 not to forward the evaluation goes to what the NAVICs say.

10 Q. Uh-huh. So and what guidance does the NAVIC have on
11 medication use?

12 A. In the current NAVIC, the older NAVIC, the guidance,
13 you know, I, I can't generalize it, but it's much vaguer than
14 the new NAVIC.

15 Q. Okay. What is the requirement under existing
16 guidance, regulations and so on for mariners to report
17 medication use?

18 A. Typically when a mariner has a, a waiver, normally
19 part of the waiver is that if the medical condition changes,
20 they're supposed to report that.

21 Q. Regardless of whether or not they just have -- they
22 just submitted a 719K, they're supposed to report any changes
23 in medical condition?

24 A. If you're being very conscientious, I assume you
25 would discuss that with the evaluator.

1 Q. Okay. All right, well according to the, to the --
2 yes.

3 A. I was going to say, you know, at some point part of
4 looking at these physicals when we get them, each physical
5 is -- we make sure it's signed by a doctor, that in all cases
6 the doctor has certified that the mariner is fit for his duty.
7 So that -- in some sense that weighs into our acceptance of
8 the physical. You know, we're trying to deal with or following
9 the guidance we have for, for the internal medical review, but
10 we also have the, the doctor's certification the physical we're
11 looking at presumably if there's no fraud or anything else, a
12 doctor has certified that they've examined the patient and
13 found the patient fit for maritime duties.

14 Q. Now suppose, suppose the primary physician that the
15 mariner sees is different than the physician that performs the
16 Coast Guard medical evaluation. And in this particular case we
17 learned this morning that the California Pilots Commission
18 sends their mariners, licensed mariners to one of four
19 physicians. It is unlikely that Dr. Calza (ph.), was the
20 doctor that performed Captain Cota's medical evaluations was
21 his primary physician. In that instance, what is the REC
22 expectations as to the information the marine would provide the
23 examining physician? Would you expect him to provide the
24 examining physician the same information he provides his
25 primary physician in terms of his medical statements and

1 medication use?

2 A. I believe that the mariner probably fills out the
3 medical history to get the background to all those questions
4 that are on the forms.

5 Q. Okay.

6 A. I, I assume that the mariner is at least giving the
7 doctor doing the physical all of the medical history and so
8 forth to complete that form.

9 Q. But the basis with which this waiver is granted, and
10 as you said that if a physician has examined him and found this
11 person fit --

12 A. Right.

13 Q. -- presumes that this physician has faxed us a
14 complete medical information, but how would you expect this
15 physician to have access to the same information that his
16 primary physician would have? You know, even the most
17 educated mariner may not have the same medical knowledge that
18 his primary physician would have.

19 A. I'm assuming that the mariner is at least being open
20 and honest with the doctor doing the physical and not trying to
21 hide something he knows is an issue.

22 Q. Uh-huh. Well, is there any mechanism in, in this --

23 A. There's no regulation that says the mariner has to
24 have the physical done by his, his primary doctor. The
25 expectation was that a doctor does a physical, takes a medical

1 history and then, you know, makes a --

2 Q. Okay. Is there any mechanism under the system that
3 there will be communication between the doctor performing the
4 medical evaluation and, and the patient's primary physician?

5 A. Not unless the doctor chooses on his own to call to
6 ask or try and gain some more information.

7 Q. Okay. Is there any provision on the form for the
8 mariner to submit the name of his -- and contact information of
9 his primary physician so that the examining physicians would
10 know who to contact?

11 A. I don't believe the mariner has to disclose that. I
12 assume if the mariner was asked, he would, he would tell the
13 doctor.

14 Q. Okay. Suppose that the mariner's condition doesn't
15 change, but the medication he uses, he or she uses changed
16 since the last physical, and now the medication is something
17 that may not be advisable for someone to use while on duty.
18 What's the requirement for a mariner to report changes in
19 medication to the REC?

20 A. Well, the basic requirement is to report a change in
21 his condition, not necessarily a change in the medication. So
22 if his condition had changed, then presumably the change would
23 be a deterioration, he would -- you know, we would expect him
24 to report that. Just the fact that, you know, he has
25 substituted another drug for his Wellbutrin but it had similar

1 side effects and so forth, I wouldn't see that the mariner
2 would be expected to report that.

3 Q. Under the current system, assuming that, that --

4 A. Yeah. I don't mean to interrupt you, but I, you
5 know, one, one issue from my perspective is, is this year we're
6 finally going through a reorganization. Very shortly my office
7 is scheduled to change and start to undergo the transition on 1
8 April, and basically I'm being taken out of the business of, of
9 doing the evaluations and the medical review and, and so forth.
10 But all my office will be will be a storefront. Everything
11 will go back to the National Maritime Center, and everything
12 will be reviewed by the staff there. But -- Dr. French's staff
13 will review all the medical physicals to make a determination
14 and, and then they have other, other members of the staff to
15 review the other qualifications and so forth. So, you know,
16 I'm -- we're very close to making that transition, and, and,
17 more, you know, it used to be with 17 RECs there were
18 differences between offices, and of course we would all work to
19 try and minimize those differences, but it, you know, it's very
20 clear that, you know, in all the different areas that there
21 were differences between the offices, you know, because you
22 have people making -- like different people making the same
23 types of determinations.

24 Q. And the date of that would be April 1?

25 A. For, for my office. Basically there's a transition

1 schedule out where all the offices this year will -- some have
2 already transitioned. New Orleans has transitioned. Juneau
3 has transitioned. The one at Anchorage has transitioned. And
4 then next week, they have Saint Louis and Toledo transitioning.
5 So it's -- there's a schedule. Oh, I'm sorry, and Baltimore
6 has also transitioned. So that's another office that has been
7 centralized. So as we're going to these new procedures, you
8 know, basically all of the physicals will be reviewed by their
9 qualified staff. I'm not sure. I know Dr. French is there. I
10 think they maybe have another doctor, and I'm not sure what the
11 backgrounds of the other people are that are doing the
12 preliminary. They're dealing with, you know, that office will
13 be doing all the reviews and making all the determinations.
14 And kind of, I guess what I was leading up to, as we get closer
15 and closer where we now find -- before my comparison was if I
16 thought there was a difference it might be my office versus
17 Portland or my office versus Seattle or my office versus the
18 East Coast practice. Now if there's differences that we
19 observe, it's between us and the centralized office. And when
20 we find that, we try and, we try and harmonize whatever it is
21 as, as we can, and basically more and more if we find a
22 difference between us and NMC, we adopt the NMC policy. If we
23 think they're flatly wrong, we try and alert them that we have
24 some concern about whatever that their policy is. So that now
25 if we get any physical in that, that we have some concern

1 about, it's just very easy for us to submit it to them for
2 their review. But we're not -- the other thing is in the past
3 we always had this issue if we submitted a physical to NMC, it
4 may be six weeks or so before we got an answer back. Now the
5 answers are coming much quicker. They have the staff. So we
6 don't have the same kind of environment with trying to process
7 these things in.

8 Q. Okay. Captain Cota's evaluation of January '07, that
9 was performed under the old system though?

10 A. Right, right.

11 Q. Is there any medication under, under the system with
12 which his most recent evaluation was, was carried out, there
13 any medication that would be, that would be automatic waiver
14 regardless of the previous, what the previous evaluation said?

15 I'm sorry. Would call for immediate review rather than a
16 waiver.

17 A. You know, I, I -- give a, a thorough answer to that,
18 I need to review the, the NAVIC and, and answer that, but my
19 general impression is no. Basically, Dr. French as part of
20 developing his new program and his new NAVIC, has found a, a
21 weakness in the old NAVIC, which is in the area of drugs. And
22 so Dr. French has taken a much stronger oversight of drugs than
23 was done in the past.

24 MR. STRAUCH: That's all the questions I have for
25 now.

1 Steve, any questions?

2 MR. BROWN: No, I'm not ready.

3 MR. STRAUCH: Okay. Well, I usually go much longer,
4 is that it?

5 MR. BROWN: Pardon?

6 MR. STRAUCH: Do I usually go much longer?

7 MR. BROWN: Yes, you do.

8 MR. STRAUCH: All right. Okay, Gary.

9 CAPT. TOLEDO: Yes.

10 BY CAPT. TOLEDO:

11 Q. Can I call you George?

12 A. Yeah, that, that would be much easier.

13 Q. Gary Toledo, OSPR. I have a couple of questions.

14 A. Okay.

15 Q. With regard to procedures as far as when the
16 physical -- form is sent back to Washington, and this is based
17 on the old system.

18 A. Right.

19 Q. Now those protocols or those procedures where would
20 those come from? What would, what would you be guided by as
21 far as sending the -- in this case, I guess a waiver, back to
22 Washington?

23 A. Yes. Basically, it was the NAVIC and the physical
24 form, and the physical form, you know, if you have a heart
25 condition, in some cases it says you've got to do a stress

1 test. So normally we would try and help the mariner as much as
2 possible. Say, hey, we've got this physical, we need to get it
3 reviewed for a waiver. You haven't submitted the stress test
4 yet. So you've got to give us a stress test and, you know,
5 maybe if you've got diabetes, you've got to do the diabetes
6 blood test. You've got to give us the basic information so
7 that we can package it up, send it back and submit it to a
8 doctor for a medical review. That's kind of our basic
9 guidance. We don't have any additional -- you know, I have
10 some medical knowledge because of illnesses in my family, but
11 it's not like I'm a trained whatever. So I maybe have more
12 medical knowledge than anyone else on my staff, but we're all
13 basically -- we'll look drugs, drugs up to see what their side
14 effects are, you know, basic, very basic things like that. But
15 if we have any doubt, our typical approach is to send it for a
16 medical review.

17 Q. Okay. So if you have any doubts, you would send it
18 back to Washington.

19 A. Right.

20 Q. Barring that, you would be guided by the --

21 A. The NAVIC.

22 Q. -- the NAVIC.

23 A. Right.

24 Q. Okay.

25 A. And there's some limited medical waivers we can do

1 under the NAVIC, but.

2 Q. You had mentioned, George, that -- or made a
3 reference to, and maybe I just need a clarification on this
4 that you make an effort to facilitate the, the physicals -- the
5 going through the process.

6 A. Right.

7 Q. And one of the things you had mentioned that -- and
8 correct me if I'm wrong. Maybe I misunderstood this, but as a
9 physician, if a physician says fit for duty, is that something
10 that you would look at as being, you know, this is probably
11 acceptable. Or is this as acceptable in your eyes if, if this
12 physician is saying fit for duty?

13 A. I think again there's 17 offices. I think
14 different -- generally my title -- the old term for it is SIP.
15 I think different SIPs look at that differently. But I, I
16 think that's true. It's sort of like you want to believe the
17 doctor, and unless you've got specific guidance to, to -- be
18 more cautious. And the guide -- you know, some of the guidance
19 is actually spelled out on the form where they want different
20 medical tests, and some of the guidance is actually in the
21 NAVIC about, you know, under the old NAVIC, I believe there was
22 a, a cutoff on diabetes. I think the number they used was very
23 high. If it's 10 and above, you know, you definitely have to
24 have it reviewed. If you have 10 and below, you know, you
25 might be able to do a local waiver. A 10 is, you know, that's

1 actually very high, and a case of diabetes could be very
2 advanced at that level, but -- yeah, but basically, you know,
3 my staff is not really trying to make a medical determination.
4 We're basically trying to follow the guidelines we were given
5 and get the application process correctly.

6 Q. Is it possible that a physician would give a fit for
7 duty assessment and not be aware of the Coast Guard
8 restrictions with regard to medical conditions or is there some
9 way the physician would look and say, oh, you know, I think
10 you're fit for duty, but the Coast Guard says that you have --
11 you can't be fit for duty if you have X, Y, Z. Is there -- is
12 it possible that --

13 A. Yeah. But I mean basically the physician is filling
14 out that form. So the guidance he has, you know, if I went to
15 my local family doctor and said, you know, I've decided to
16 apply for a license, I, I need this physical, I come to you
17 ever year for my physical, would you go over this with me and
18 give me a physical. Other than what that form says, she may
19 not realize that, that -- my doctor, actually my old doctor, my
20 current doctor have been women. So that's the reason I say
21 she. She might not be aware of the medical NAVIC. You know,
22 the idea of this is they're making a determination for maritime
23 duty. So their concept or understanding of what maritime
24 duties are, you know, might vary from person-to-person. You
25 know, it -- and obviously if my doctor asked me for more

1 information, I would say well, you know, there is some
2 guidance. There's a NAVIC that, that describes the Coast
3 Guard's interpretation of regulations, but, you know, it would
4 be up to the doctor and how comfortable they felt with filling
5 out the form.

6 CAPT. TOLEDO: I have no, no further questions.

7 MR. STRAUCH: Okay.

8 BY CAPT. HURT:

9 Q. Rick Hurt with the Bar Pilots -- one question. I
10 lost, I lost you a little bit in the discussion about the --

11 (Phone ringing.)

12 MR. BUFFLEBEN: Is that me?

13 BY CAPT. HURT:

14 Q. That's you.

15 A. I'm sorry. Oh, God. I'll call you back. Bye.

16 Q. Between the 2000 waiver and the 2005 physical, and
17 you said they were identical, is that correct?

18 A. That --

19 Q. But we don't have the 2000 form?

20 A. No, I, I think, I think both physicals are in the
21 file.

22 Q. They are --

23 A. Right.

24 Q. Because you said they were basically, but we --
25 obviously we didn't have them.

1 A. No, I, I haven't, I haven't read them thoroughly.

2 As, as you know --

3 Q. I --

4 A. -- looked at them, but my -- before my -- a member of
5 my staff had turned the file over -- that, that was his
6 impression. I've also had Coast Guard investigators talk to me
7 about it, and, and they had the physicals there.

8 Q. Okay. So --

9 A. Right, right.

10 Q. -- those --

11 A. Right. As far as I know, all the physicals that
12 should be in the file are there and, you know, if they were
13 lost, the investigators lost them. It's not like the staff
14 lost them.

15 CAPT. TOLEDO: I don't have anything else.

16 MR. STRAUCH: Steve, any questions?

17 BY MR. BROWN: I just have a few follow-up questions.

18 MR. STRAUCH: Okay.

19 BY MR. BROWN:

20 Q. What is the status of Captain Cota's medical license
21 right now?

22 A. He surrendered --

23 UNIDENTIFIED SPEAKER: You mean his pilot's license?

24 BY MR. BROWN:

25 Q. Okay, his pilot's license.

1 A. It currently has been voluntarily deposited with the
2 Coast Guard.

3 Q. Did the Coast Guard take any action with regard to --
4 his medical fitness for duty?

5 A. Any potential action regarding Captain Cota's license
6 relative to his medical condition basically is on hold pending
7 the numerous ongoing investigations, primarily the criminal.

8 Q. Okay. What was the basis that Captain Cota was asked
9 to submit his license to the Coast Guard?

10 A. During the course of the investigation, the
11 uncovering of the various medications that he was taking
12 combined with some of the physical issues that were raised in
13 the series of physicals that he had in his file.

14 Q. Well, what was it about the medications he was taking
15 that led the Coast Guard to ask him to submit his, his license?

16 A. Basically the listed potential side effects of those
17 medications and how they may or may not have some impact upon
18 his judgment, his ability to function, cognitive ability.

19 Q. Okay. Now what changed in the Coast Guard standards
20 between the time that Captain Cota submitted his 719K to the
21 Coast Guard in January -- January 19th of '07 with the time
22 that the Coast Guard asked him to submit his license because of
23 his medication?

24 A. Are you asking me or? I, I haven't been involved in
25 the investigation. I, I believe there's been a lot more input

1 from Dr. French about the medication that he has listed on his
2 physical. I, I suspect --

3 UNIDENTIFIED SPEAKER: I don't know that anything has
4 necessarily changed with respect to existing policy or
5 development of policy. It's merely been a more critical review
6 of what was contained in this licensing file. As kind of the
7 ordinary course of the investigation, we're going to look at
8 all potential areas that could have impacted or caused or
9 affected the casualty itself, including physical health and
10 mental well-being.

11 UNIDENTIFIED SPEAKER: Mr. Buffleben's response to an
12 earlier question that under existing Coast Guard regulations
13 there is no medication that would call for further evaluation.
14 I don't understand the basis, since the regulation and guidance
15 has not changed, why the Coast Guard would decide now that the
16 medication used is cause for concern, unless something's
17 changed that I'm not aware of that maybe you could shed some
18 light on.

19 MR. BUFFLEBEN: I don't -- to be honest, it's just
20 discussions with Captain French. The sharing of the very
21 specific details contained in his licensing file and/or the
22 physical --

23 BY MR. BROWN:

24 Q. Okay.

25 A. He raised the issues because he's the medically

1 trained professional to which the significance of those various
2 medications would obviously be of concern.

3 Q. Okay. Shouldn't these medications have raised
4 concern with Dr. French before the accident?

5 UNIDENTIFIED SPEAKER: Well, that's a very
6 speculative question. First of all, you have to assume that he
7 had an obligation or that he was supposed to look at them in
8 the first place. I think that what Mr. Buffleben said was that
9 based upon the existing policy at the time, it was his belief
10 that there was not a requirement or an obligation to forward it
11 for further medical evaluation because of the existing waiver.
12 I don't know if that's the right answer or not, and again we're
13 probably not the right people to ask that question to. It
14 would have been the evaluator, which would have been Chief
15 Hogge.

16 BY MR. BROWN:

17 Q. Well, then, could you explain the process by which
18 his, his application was subject to review after the accident?
19 The same application that had been approved before the
20 accident?

21 A. Well, basically, you know, the accident, the Coast
22 Guard has very expansive investigative authorities to look at a
23 whole variety of issues and certainly any time there's an
24 accident, there are relevant physical issues, you know,
25 concerning the individuals involved, both the injured parties

1 and/or the individuals operating the vessel are going to come
2 under scrutiny, and that's kind of ordinary course of
3 investigation, which we did, and it was during the course of
4 that review and looking at whether or not there was any issues
5 of physical or mental incompetence which may shed light or
6 could have impacted the casualty. That's the purpose for
7 looking at it, and that's why we delved into it as we did.

8 Q. Okay. And whose decision was it to consider these
9 medications to be adverse to his performance? You said that
10 was -- was that --

11 A. The advice that we got and the analysis that we got
12 came from Dr. French.

13 Q. So it was Dr. French's position?

14 A. He was asked to look at the physical. It was
15 submitted to him as course of the investigation relative to any
16 issues it may raise concerning Captain Cota's exercise of
17 decision-making and/or resource --

18 BY MR. BROWN:

19 Q. Okay. So Mr. Buffleben, when you said earlier that
20 had you known what you know now you would, you would have
21 submitted this --

22 A. Well, no, it's, it's -- I'm not saying that if had
23 that list of medications before me I would have submitted it.
24 What I -- my comment was right now I'm in the process of
25 transitioning, and, and very soon I won't be performing these

1 duties. We're trying to ensure uniformity in the program. So,
2 so there's no reason for me to try and make my own policy
3 interpretations of anything. It's very easy for me to submit
4 things back to Washington. And now, unlike in the past, I know
5 if I submit something, I'll get a timely answer. In the past,
6 it's only been maybe the last year that we've gotten timely
7 answers on, on physical reviews. Before that, you know, it
8 was, it was a cycle, but in some cases it would take six weeks,
9 six to eight weeks to get an answer on a physical that was
10 submitted.

11 Q. Now the, the reason, the reason the Coast Guard asked
12 him to submit his license, as you said, based on the opinion of
13 Dr. French, was there any, was there any indication that Mr.
14 Cota had been less than forthcoming in the information, the
15 medical information he provided the Coast Guard?

16 A. At this point, I don't believe that's, you know,
17 that's the case. We took the information contained on his
18 physical at face value, and then when evaluated by Dr. French,
19 who is obviously much more familiar with those medications and
20 what the potential side effects are, that's when he raised the
21 issue about could they have impacted or affected his judgment,
22 exercise of decision-making, et cetera.

23 MR. STRAUCH: Last -- questions?

24 BY UNIDENTIFIED SPEAKER:

25 Q. -- what medication are you talking about?

1 A. I think there's --

2 (Simultaneous comments.)

3 Q. Provigil, potassium citrate for kidney stones,
4 Imitrex for headaches, Aciflux for heartburn, orazapan (ph.).

5 A. That's the other one --

6 Q. Which is depression -- valium.

7 A. Right.

8 Q. Alphagan -- propazakin (ph.), ACL, for occasional --
9 Lipitor, dietary supplement, cholesterol, actually Lipitor is a
10 prescription, statin, cholesterol, and maxim --

11 (Simultaneous comments.)

12 Q. The valium, what was that? What condition was that
13 for?

14 A. It just says occasionally for sleep.

15 UNIDENTIFIED SPEAKER: I think in most general terms
16 basically one of the medications was to help him sleep, and
17 then one of the other medications was to basically help him
18 wake up, if you will. One counteracted the other one.

19 BY UNIDENTIFIED SPEAKER:

20 Q. I have one quick follow-up question. In general,
21 when a mariner has a condition that would require medical
22 review or -- waiver --

23 A. Uh-huh.

24 Q. Do they generally come in and bring that to your
25 attention or is it something that you find?

1 A. No. It's normally the evaluator in going, you know,
2 under, under our current system, we, we have -- in my office we
3 basically, we have clerks, we have the user fee, collection
4 clerk, and then we have people that we consider qualified
5 evaluators. In some cases, the evaluators are only qualified
6 for lower level licenses, and then more senior evaluators are
7 qualified for, for higher licenses. And, and everyone, if they
8 have any questions or doubt, you know, they're encouraged to go
9 and ask questions. Normally the kind of the day-to-day
10 supervisor is Mr. Breeden. So normally they would either
11 ask -- when Chief Hogge was here, they would either ask Chief
12 Hogge as a supervisor there, John Breeden as a first-line
13 supervisor for clarification and an answer.

14 Q. So that the evaluating officer just -- would just
15 look at the form and see that there was something on the form.
16 The mariner --

17 A. Right.

18 Q. -- doesn't say, hey, I've got a condition that needs
19 additional --

20 A. Right. Unless he's had a waiver in the past, and
21 usually that's obvious because part of doing a renewal is
22 typically you're supposed to look at the old physical, the old
23 application and the new application.

24 Q. Right.

25 A. I'm actually kind of tired now. I had another

1 thought, but I'm --

2 Q. Well, that satisfied my --

3 A. Yes, okay.

4 BY UNIDENTIFIED SPEAKER:

5 Q. I just have a couple real quick questions here for
6 you, George.

7 A. Okay.

8 Q. George, to the best of your knowledge, does the Coast
9 Guard require any type of specific certification, the doctor
10 signing off on the fit for duty forms, the physicals?

11 A. Basically, typically we -- oh, that's, that's my
12 thought. Typically when these physicals come in, quite often
13 they're incomplete. So my office has been very diligent to
14 make sure we have a complete form. It's quite common for a
15 doctor or a medical office to fill out the physical form but
16 not check the box that says which test was used for color
17 vision. So, so and sometimes the form shows up and the, the
18 box is not checked by the doctor either fit for duty or not fit
19 for duty. So that's, that's something that my clerk should,
20 should do, and certainly the evaluators do, is when we get a
21 physical to make sure the form is complete.

22 Q. I, no, I guess my question is a little more specific.
23 In order to certify that a mariner is fit for duty, any doctor
24 with a license can do that? There's no --

25 A. Right. Quite often if we suspect for any reason some

1 fraud in the application, we'll try and look up the doctor's
2 medical license. We had one case I'm familiar with where there
3 were a lot of things in the application that looked suspicious.
4 It was a, a doctor in the Virgin Islands, and their method of,
5 of numbering is different than anything we had ever seen. So
6 we, we did actually in this case again it was Chief Hogge. She
7 very diligently checked numerous sources to make sure the
8 doctor had a valid medical license. I also think more advanced
9 people can also sign the form like a physician's assistant or
10 a --

11 Q. Nurse practitioner.

12 A. Yeah, a nurse practitioner.

13 Q. To the best of your knowledge, is there any
14 requirement for the doctor to certify that he has read the
15 Coast Guard NAVIC concerning licensing physicals?

16 A. No.

17 Q. Is there -- requirement you're aware of which
18 requires the mariners provide a specific description of
19 maritime duties to the doctor before making the certification?

20 A. No.

21 Q. And then I guess my last question is to the best of
22 your knowledge, would it be true that -- to, to conclude that
23 basically the doctor must rely upon the medical history as
24 provided by the mariner as a basis for doing his evaluation?

25 A. I, I believe so. And, again, I think the doctor

1 would be in a position like us. If everything looks complete
2 and there's no reason for doubt, he would probably accept it.
3 If for some reason there was something there didn't sound
4 right, then you know a thorough doctor might, might be a little
5 bit more thorough and try and check things out.

6 Q. So basically it's like volunteer compliance with IRS
7 as far as disclosure?

8 A. I suppose.

9 UNIDENTIFIED SPEAKER: Okay. I don't have any more
10 question.

11 MR. STRAUCH: All right, well, thank you very much.

12 MR. BUFFLEBEN: Okay.

13 MR. STRAUCH: I appreciate all your --

14 (Whereupon, the interview in the above-entitled matter
15 was concluded.)

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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: M/V COSCO BUSAN/BRIDGE ALLISION
 SAN FRANCISCO, CALIFORNIA
 Interview of George Buffleben

DOCKET NUMBER: DCA-08-MM-004

PLACE:

DATE: January 31, 2008

was held according to the record, and that this is the
original, complete, true and accurate transcript which has been
compared to the recording accomplished at the hearing.

Katherine Motley
Transcriber